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PD 02W127

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David D. Crouch

Group Art Unit 2873 Examiner: Ben, Loha

Serial No. 10/803,403 Filed: 03/18/2004

Date: July 24, 2006

PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAWAL HOLDING OF ABANDONMENT

Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions for withdrawal of a holding of abandonment in the above-referenced application. The facts in the case are as follows:

- The application was filed on March 18, 2004. The Fee Transmittal form submitted with the application included a general authorization to charge any additional fees or underpayment of fees to Applicant's deposit account. A copy of the fee transmittal is enclosed.
- A Notice of Allowance and Fees Due was mailed on March 6, 2006.
- The Issue Fee Transmittal form was returned by facsimile on March 27, 2006. A copy of the Fee Transmittal form and the Auto-Reply transmission are enclosed. The Issue Fee Box in section 4a. is clearly checked, but the Publication Fee box is not checked. In Section 4b., the box authorizing the Director to charge the required fee(s) to a Deposit Account is also clearly checked, and the deposit account information is provided.
- A Notice of Abandonment was mailed on July 13, 2006. The Notice indicates that the Abandonment was due to "applicants' failure to timely pay the required issue fee and publication fee ... ". The Notice of Abandonment

Serial No. 10/803,403 Page 2

further notes that "the submitted fee of \$300 is insufficient. A balance of \$1400 is due." A copy of the Notice of Abandonment is also enclosed.

Applicant respectfully submits that the Issue Fee Transmittal was filed with a clear intent to pay the required fees, and is thus subject to the provisions of the third paragraph of MPEP 1306, which reads as follows:

Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b). In addition, where the deposit account information is added to the Fee(s) Transmittal form (PTOL-85B), but the check box authorizing that the deposit account be charged the issue fee is not checked, the deposit account will still be charged the required issue fee and any required publication fee.

Applicant respectfully requests that the holding of abandonment be withdrawn and the application be allowed to proceed to issue.

> Respectfully submitted. David D. Crouch

John E. Gunther Agent for Applicant

Registration No. 43,649

Raytheon Company P. O. Box 902 EO/E4/N119 El Segundo, CA 90245

(310) 647-3723 (310) 647-2616 facs 07/24/2006 16:31 3106472516 RAYTHEON IP

PAGE 03/07

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PTO/SB/17 (10-03) Approved for use through 07/31/2006, OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number Complete if Known FEE TRANSMITTAL Application Number Filing Date HEREWITH for FY 2004 DAVID D. CROUCH First Named Inventor Effective 10/01/2003, Patent fees are subject to annual revision Examiner Name Applicant claims small entity status. See 37.4FR 1,27 Art Unit (5) 1402.00 **TOTAL AMOUNT OF PAYMENT** PD-02W127 Attorney Docket No METHOD OF PAYMENT (check all that apply) FEE CALCULATION (continued) Check Credit card Money Other 3. ADDITIONAL FEES Large Entity | Small Entity Deposit Account FRO Fee Description Deposit/ (\$) Code Fee Paid 50-0888 2051 1051 130 65 Surcharge - late filling fee or oath Number Deposit 1052 Surcharge - late provisional filing (ea or 50 2052 25 RAYTHEON COMPANY Account Name 1053 130 1053 130 Non-English specification The Olractor is authorized to: (check all that apply) 1812 2,520 1812 2,520 For filing a request for ex parte reaxamination Credit any overpayments Charge fee(s) indicated below 920° Requesting publication of SIR prior to 1804 920 18D4 Charge any additional fee(s) or any underpayment of fee(s) Charge (ee(s) indicated below, except for the filling fee 1805 1,840 1805 1,840* Requesting publication of SIR after to the above-identified deposit account. Examiner action 1251 110 2251 55 Extension for reply within first month **FEE CALCULATION** 1252 420 2252 210 Extension for reply within second month 1. BASIC FILING FEE 1253 950 2253 475 Extension for reply within third month arge Entity Small Entity Fee Pald Fee Description Fee Fee Code (\$) 1254 1,480 2254 740 Extension for reply within fourth month Code (\$) 1,005 Extension for reply within lifth month 2255 1255 2,010 1001 770 2001 365 Utility filing fee 770.00 1401 330 1002 340 2401 165 Notice of Appeal 2002 170 Dasign filing fee 330 2402 165 Filing a brief in support of an appeal 1003 530 2003 265 Plant filing fee 1402 1004 770 2004 385 Reissum filing fea 1403 290 2403 145 Request for oral hearing 1005 160 1451 1,510 1451 1,510 Petition to institute a public use proceeding 2005 Provisional filling fee 1452 110 2452 55 Petition to revive - unavoidable SUBTOTAL (1) (\$) 770.00 1453 1,330 2453 665 Petition to revive - unintentional 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE 1501 1,330 2501 665 Ullity take fee (or reissue) Ext<u>ra Claim</u>s Fee Pald 1502 2502 below 480 240 Design issue fee Total Claims 29 Ix <u>⊑18</u>_ 9 <u>-[162</u> -20⁻⁻ = L 1503 640 2503 320 Plant Issue fee Independent 8 -3" = 5 X 86 =430 1460 130 1480 130 Petitions to the Commissioner Multiple Dependent 1807 50 50 Processing fee under 37 CFR 1.17(q) 1807 Large Entity) Small Entity 1808 180 1808 160 Submission of Information Disclosure Stmt Fee Description 40 Recording each patent assignment per property (times number of properties) Code (\$) Code (\$) 40.00 2021 40 8021 1202 18 2202 Claims in expess of 20 385 Filing a submission after final rejection (37 CFR 1.129(a)) 1809 770 2809 1201 88 2201 43 independent claims in excess of 3 1203 290 Multiple dependent claim, if not paid 385 For each additional Invention to be examined (37 CFR 1.129(b)) 1810 770 2810 1204 88 2204 43 Reissue independent claims over original patent 1801 770 2801 385 Request for Continued Examination (RCE) ** Reissue cialms in excess of 20 900 Request for expedited examination 1205 18 2205 Q 1802 900 1802 and over original patent of a design application Other fee (spacify) (\$) 592.00 SUBTOTAL (2) Reduced by Basic Filing Fee Pald (5) 40.00 SUBTOTAL (3) **or number previously paid, if greater; For Relssues, see above

(Complete (7 applicable)) SUBMITTED BY Registration No. Name (Phi/Type) 49066 Fnn Telephone 255794-1980 MMAS 18 .0 Signature Date WARNING: Information on this form may become public. Credit card information should not

be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The haformation is regulated to obtain or retain a benefit by the public which is to file tand by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is assimated to take 12 minutes to complete, including gathering, preparing, and automitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Palent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents. P.O. Box 1450. Alexandria. VA 22313-1450.

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Fax Information

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Total Pages: 1 (including cover page)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,403	03/18/2004	David D. Crouch	PD-02W127	5544
	7590 07/13/2006		EXAM	INER
THOMAS J. FINN, ESQ. RAYTHEON COMPANY		RAYIHEON	REN, LOHA	
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2000 E. EL SEGUNDO BLVD. EL SEGUNDO, CA 90245-0902		RECEIVED	2873	
		JUL 1.9 2006	DATE MAILED: 07/13/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Notice of About a	10/802 402		
Notice of Abandonment	10/803,403 Examiner	GROUCH	
		Art Unit	
- The MAILING DATE of this communication	BEN	2873	
- The MAILING DATE of this communication	r appears on the cover sheet w	ith the correspondence address-	
This application is abandoned in view of:			
Applicant's failure to timely file a proper reply to the (a) A reply was received on (with a Certificate period for reply (including a total extension of time (b) A proposed reply was received on, but it it is a proper reply under 37 CFD 4.448.44.45.	e of Mailing or Transmission date e of month(s)) which expi does not constitute a proper reply	red on	
(A proper reply under 37 CFR 1.113 to a final rej application in condition for allowance; (2) a timely Continued Examination (RCE) in compliance with	ection consists only of: (1) a time		
(c) A reply was received onbut it does not confinal rejection. See 37 CFR 1.85(a) and 1.111. (Metitute e propor male es a bes	fide attempt at a proper reply, to the non-	
(d) No reply has been received.	orpresident in box / below).		
2. Applicant's failure to timely pay the required issue fe from the mailing date of the Notice of Allowance (PT	e and publication fee, if applicabl OL-85).	e, within the statutory period of three months	
 (a)	by period for payment or the issu	Certificate of Mailing or Transmission date e fee (and publication fee) set in the Notice of	
(b) The submitted fee of \$300 is insufficient. A balar	nce of \$ <u>1400</u> is due.		
The issue fee required by 37 CFR 1.18 is \$140	The publication fee, if required	by 37 CFR 1.18(d), is \$300.	
(c) ☐ The issue fee and publication fee, if applicable, h	as not been received.		
 Applicant's failure to timely file corrected drawings as Allowability (PTO-37). 			
 (a) Proposed corrected drawings were received on _ after the expiration of the period for reply. 	(with a Certificate of Mailing	or Transmission dated), which is	
(b) ☐ No corrected drawings have been received.			
 The letter of express abandonment which is signed be the applicants. 	y the attorney or agent of record,	the assignee of the entire interest, or all of	
 The letter of express abandonment which is signed b 1.34(a)) upon the filing of a continuing application. 	y an attomey or agent (acting In	a representative capacity under 37 CFR	
The decision by the Board of Patent Appeals and Inte of the decision has expired and there are no allowed	erference rendered on and claims.	because the period for seeking court review	
7. The reason(s) below:			
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Petitions to revive under 37 CFR 1.137(a) or (b), or requests to will minimize any negative effects on patent term.	hdraw the holding of abandonment u	nder 37 CFR 1.181, should be promptly filed to	
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